From: Douglas Lewan
To: Microsoft ATR
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Subject: Microsoft Settlement

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Please accept the following comments regarding the Revised Proposed Final Judgement published by the DOJ at http://www.usdoj.gov/atr/cases/f9400/9495.htm .

I agree with the obvious implied spirit of the Final Judgement. However, I believe it fails to truly attain that spirit in practice in several ways, the most important of which I discuss below.

Sections III.D and III.E regarding scheduling the publication of APIs and protocols:

These two sections fail to meet the spirit of the Final Judgement in two important ways.

First, the schedules based on delays of 9 and 12 months respectively would place publication of those APIs and protocols about halfway Microsoft's own development and deployment cycle. Vendors who could benefit from using those APIs and protocols would thus only be able to deploy products with them as Microsoft has new products looming on the horizon.

Second, the publication mechanisms specified in those two sections remain far too closed to foster competition outside of Microsoft controlled circles.

Publication of APIs as specified in III.D would be only to a select audience and only by the purchase of the MSDN (currently at a cost of between $1000 and $3000). That publication should be entirely public, possibly through a recognized standards body like ISO, ANSI or the IEEE. Otherwise Microsoft will continue to wield essential absolute control

over those APIs and their use.

Similar arguments apply to the publication of protocols.

With regard to protocols and "interoperating with a Windows Operating System Product" it should be recognized that all file formats used by Windows Operating System Products fall under the umbrella of "protocol". Interoperability must be explicitly recognized to cover any data produced by any program on any medium that might be used by any other program for a specific purpose. The current phrasing is far too weak and vague to allow interoperable alternatives to the likes of Word, Project, Visio, etc., all important Windows Operating System Products.

Section III.J further weakens sections III.D and III.E.

Section III.J has several flaws.

First, in it the Department of Justice and the nine plaintiff states sanction a policy of /security through obscurity/, an mechanism known to be flawed. It is far more secure to allow public scrutiny of security mechanisms to reveal the most egregious holes before commitment, implementation and use. Consider the work regarding DES, AES, Kerberos, etc.; even the theory behind RSA was published and widely discussed long before practical implementations were made. The possibilities and implications of vulnerabilities in the field under such policies are far worse that under published security mechanisms. Among other things, fixes become nearly impossible: (1) backward compatibility is necessary, difficult and counter-productive leading to a false of security and (2) deployments of such fixes can never be expected to be complete.

Second, by not publishing secure aspects of application protocols (authentication and authorization), third party software can never reach the point where it /can/ use the functional application protocols intended by section III.E.

All in all, sections III.D, III.E and III.J create at best a documentary opening of Microsoft products with (1) consequences for Microsoft and (2) no improved opportunities for the rest of the software industry.

Thank you for taking my comments under consideration.

Douglas Lewan
